IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 7051 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHIKHAJI DUDHAJI DAMOR - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR YATIN SONI for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,
MR HITESH B PATEL for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 16/07/2007
ORAL JUDGMENT

Rule. By way of this application under Section 482 of the Code of Criminal Procedure, the applicant herein, original-accused, has prayed for an appropriate order to quash and set

aside the complaint/FIR being II C.R. No. 35/2007 registered at Meghraj police station, Meghraj, District-Sabarkantha.

2. At the outset it is to be noted that in the complaint the allegations are that the applicant has committed offence punishable under Section 506(2) of the Indian Penal Code and Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereinafter referred to as 'the Act'], However the learned counsel appearing on behalf of the petitioner did not press the present application qua the other offences other than under Section 3(1)(10) of the Act. The learned advocate appearing for the applicant has submitted that on bare reading of the complaint it does not disclose any offence under Section 3(1)(10) of the Act and only with a view to harass the applicant the impugned complaint has been filed and the allegations for the offence under Section 3(1)(10) of the Act are made. It

is submitted that none of the ingredients of Section 3(1)(10) of the Act is attracted and therefore continuation of the complaint for the said offence would be nothing but abuse of process of law and therefore requested to quash the complaint qua the allegations for the offence under Section 3(1)(10) of the Act.

3. Shri Shah, learned advocate has appeared on behalf of respondent No.2 and he is not in position to satisfy the Court how the case under Section 3(1)(10) of the Act is made out. If the averments in the complaint are taken in their face value, no case is made out for the offence under Section 3(1)(10) of the Act. Under the circumstances, to continue the criminal proceedings for the offence under Section 3(1)(10) of the Act would be abuse of process of law and therefore the impugned complaint with regard to the offence under Section 3(1)(10) of the Act requires to be quashed and set aside. Even on considering the FIR as it is and the

averments/allegations in the complaint as stated hereinabove, no case is made out under Section 3(1)(10) of the Act and therefore this is a fit case to exercise the powers under Section 482 of the Cr.P.C.

4. For the reasons stated hereinabove, the application succeeds in part and the impugned complaint being C.R. No. II-35/2007 registered with Meghraj police station in so far as it relates to the allegation for the offences punishable under Section 3(1)(10) of the Act requires to be quashed and set aside and accordingly the impugned complaint with regard to the offence under Section 3(1)(10) of the Act is hereby quashed and set aside. For rest of the offences, the criminal proceedings be continued. Rule is partly made absolute.

[M.R. Shah, J.]

rmr.